

AMENDED IN ASSEMBLY MAY 6, 2013

AMENDED IN ASSEMBLY APRIL 25, 2013

AMENDED IN ASSEMBLY APRIL 15, 2013

CALIFORNIA LEGISLATURE—2013–14 REGULAR SESSION

## **ASSEMBLY BILL**

**No. 964**

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**Introduced by Assembly Member Bonta**

February 22, 2013

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An act to amend Section 11713.18 of the Vehicle Code, relating to vehicles.

### LEGISLATIVE COUNSEL’S DIGEST

AB 964, as amended, Bonta. Vehicles: dealers.

Existing law makes it unlawful and provides that it constitutes an infraction for any person to violate, or fail to comply with, any provision of the Vehicle Code, or any local ordinance adopted pursuant to this code. Existing law also makes it a violation of the Vehicle Code for the holder of any specified dealer’s license to advertise for sale or sell a used vehicle as “certified” or use any similar descriptive term in the advertisement or the sale of a used vehicle that implies that the vehicle has been certified to meet the terms of a used vehicle certification program if any of several specified conditions apply. Under existing law, those specified conditions include, but are not limited to, when the vehicle has sustained damage in an impact, fire, or flood, that after repair prior to sale substantially impairs the use or safety of the vehicle, when the dealer knows or should have known that the vehicle has sustained frame damage, or when the dealer, prior to sale, fails to provide a completed inspection report, as specified.

This bill, 180 days after the enactment of regulations pursuant to portions of the federal *Moving Ahead for Progress in the 21st Century Act (MAP-21)*, would prohibit the holder of any dealer's license from selling a used vehicle as part of a used vehicle certification program if the dealer knows or should have known that the vehicle is the subject of a manufacturer's safety recall. The bill would also prohibit the holder of any dealer's license from selling any used vehicle without providing a written disclosure, in certain languages, indicating which, if any, of several specified conditions are present.

By creating new crimes, this bill would impose a state-mandated local program.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

Vote: majority. Appropriation: no. Fiscal committee: yes.

State-mandated local program: yes.

*The people of the State of California do enact as follows:*

1 SECTION 1. Section 11713.18 of the Vehicle Code is amended  
2 to read:

3 11713.18. (a) It is a violation of this code for the holder of  
4 any dealer's license issued under this article to advertise for sale  
5 or sell a used vehicle as "certified" or use any similar descriptive  
6 term in the advertisement or the sale of a used vehicle that implies  
7 the vehicle has been certified to meet the terms of a used vehicle  
8 certification program if any of the following apply:

9 (1) The dealer knows or should have known that the odometer  
10 on the vehicle does not indicate actual mileage, has been rolled  
11 back or otherwise altered to show fewer miles, or replaced with  
12 an odometer showing fewer miles than actually driven.

13 (2) The dealer knows or should have known that the vehicle  
14 was reacquired by the vehicle's manufacturer or a dealer pursuant  
15 to state or federal warranty laws.

16 (3) The title to the vehicle has been inscribed with the notation  
17 "Lemon Law Buyback," "manufacturer repurchase," "salvage,"  
18 "junk," "nonrepairable," "flood," or similar title designation  
19 required by this state or another state.

1 (4) The vehicle has sustained damage in an impact, fire, or flood,  
2 that after repair and prior to sale substantially impairs the use or  
3 safety of the vehicle.

4 (5) The dealer knows or should have known that the vehicle has  
5 sustained frame damage.

6 (6) Prior to sale, the dealer fails to provide the buyer with a  
7 completed inspection report indicating all the components  
8 inspected.

9 (7) The dealer disclaims any warranties of merchantability on  
10 the vehicle.

11 (8) The vehicle is sold "AS IS."

12 (9) The term "certified" or any similar descriptive term is used  
13 in any manner that is untrue or misleading or that would cause any  
14 advertisement to be in violation of subdivision (a) of Section 11713  
15 of this code or Section 17200 or 17500 of the Business and  
16 Professions Code.

17 (10) The dealer knows or should have known that the vehicle  
18 is subject to a manufacturer's safety recall.

19 (b) It is a violation of this code for the holder of any dealer's  
20 license issued under this article to sell a used vehicle without  
21 providing the buyer written disclosure, in *English or in* the  
22 languages specified in subdivision (b) of Section 1632 of the Civil  
23 Code, identifying which, if any, of the following conditions are  
24 present, if the dealer knows or should know of its presence:

25 (1) The odometer on the vehicle does not indicate actual  
26 mileage, has been rolled back or otherwise altered to show fewer  
27 miles, or replaced with an odometer showing fewer miles than  
28 actually driven.

29 (2) The vehicle was reacquired by the vehicle's manufacturer  
30 or a dealer pursuant to state or federal warranty laws.

31 (3) The title to the vehicle has been inscribed with the notation  
32 "Lemon Law Buyback," "manufacturer repurchase," "salvage,"  
33 "junk," "nonrepairable," "flood," or similar title designation  
34 required by this state or another state.

35 (4) The vehicle has sustained damage in an impact, fire, or flood,  
36 that after repair and prior to sale substantially impairs the use or  
37 safety of the vehicle.

38 (5) The vehicle has sustained frame damage.

39 (6) The dealer disclaims any warranties of merchantability on  
40 the vehicle.

1 (7) The vehicle is sold “AS IS.”

2 (8) The vehicle is subject to a manufacturer’s safety recall.

3 ~~(e) It is a violation of this code for the holder of any dealer’s~~  
4 ~~license issued under this article to sell a used vehicle without~~  
5 ~~providing the buyer a completed inspection report indicating all~~  
6 ~~the components inspected prior to sale.~~

7 (c) (1) A violation of this section is actionable under the  
8 Consumers Legal Remedies Act (Title 1.5 (commencing with  
9 Section 1750) of Part 4 of Division 3 of the Civil Code), the Unfair  
10 Competition Law (Chapter 5 (commencing with Section 17200)  
11 of Part 2 of Division 7 of the Business and Professions Code),  
12 Section 17500 of the Business and Professions Code, or any other  
13 applicable state or federal law. The rights and remedies provided  
14 by this section are cumulative and shall not be construed as  
15 restricting any right or remedy that is otherwise available.

16 (2) The rights, remedies, and procedures provided for in this  
17 section are in addition to, and independent of, any other rights,  
18 remedies, or procedures available under any other law. Nothing  
19 in this section shall be construed to alter, limit, or negate any other  
20 rights, remedies, or procedures provided for by law.

21 (d) This section does not abrogate or limit any disclosure  
22 obligation imposed by any other law.

23 (e) This section does not apply to the advertisement or sale of  
24 a used motorcycle or a used off-highway motor vehicle subject to  
25 identification under Section 38010.

26 SEC. 2. No reimbursement is required by this act pursuant to  
27 Section 6 of Article XIII B of the California Constitution because  
28 the only costs that may be incurred by a local agency or school  
29 district will be incurred because this act creates a new crime or  
30 infraction, eliminates a crime or infraction, or changes the penalty  
31 for a crime or infraction, within the meaning of Section 17556 of  
32 the Government Code, or changes the definition of a crime within  
33 the meaning of Section 6 of Article XIII B of the California  
34 Constitution.

35 SEC. 3. *This bill shall become operative 180 days after the*  
36 *adoption of regulations pursuant to Section 31301 of the federal*  
37 *Moving Ahead for Progress in the 21st Century Act (MAP-21;*  
38 *Public Law 112-141).*

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